

Requested by Representative MCLAIN

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3185**

1 On page 1 of the printed bill, delete lines 5 through 30.

2 Delete pages 2 and 3 and insert:

3 **“SECTION 1.** ORS 196.909 is amended to read:

4 “196.909. As used in ORS 196.906 to 196.919:

5 “(1) ‘Adaptive management’ has the meaning given that term in ORS  
6 541.890.

7 “(2) ‘Channel’ means the defined bed and bank that serve to confine where  
8 a stream of water runs.

9 “(3) ‘Dry’ means:

10 “(a) Channel conditions where no flowing or standing water is present,  
11 other than small quantities of water that may occur in low areas of the  
12 channel as a direct result of active maintenance activities; and

13 “(b) For the channel of a waterway that is subject to tidal influence, the  
14 existence of channel conditions described in paragraph (a) of this subsection  
15 during all tidal conditions.

16 “(4) ‘Maintenance’ means channel upkeep and removal from the channel  
17 of sediment, vegetation or debris, in the minimum amount necessary to re-  
18 store the serviceability of the channel for facilitating drainage.

19 “(5) ‘Traditionally maintained channel’ means the channel of a segment,  
20 set of segments or the entirety of a drainage ditch, intermittent stream or  
21 perennial stream that:

1 “(a) Has been routinely subject to maintenance to facilitate drainage re-  
2 lated to farming or ranching operations; and

3 “(b) Has been serviceable for facilitating drainage within the past five  
4 years.

5 “(6) **‘Undisturbed wetland’ means a wetland that has not been**  
6 **materially affected by human activity and as further defined by the**  
7 **department by rule.**

8 “**SECTION 2.** ORS 196.913 is amended to read:

9 “196.913. (1) Activities for conducting maintenance of a traditionally  
10 maintained channel pursuant to a notice submitted under ORS 196.911 may  
11 not result in:

12 “(a) The removal of more than 3,000 cubic yards per linear mile of tradi-  
13 tionally maintained channel over the course of the five-year period for which  
14 the notice is valid;

15 “(b) The spreading of material in:

16 “(A) A wetland or converted wetland pursuant to subsection (2)(k) of this  
17 section in a volume greater than 3,000 cubic yards per linear mile of tradi-  
18 tionally maintained channel over the course of the five-year period for which  
19 the notice is valid; **or**

20 “(B) **An undisturbed wetland.**

21 “(c) The removal or fill of material, or any other maintenance, occurring  
22 in a channel that has been designated by rule and mapped by the Department  
23 of State Lands as essential indigenous anadromous salmonid habitat as de-  
24 fined in ORS 196.810; or

25 “(d) The enlargement of a water right or in otherwise causing injury to  
26 another existing water right.

27 “(2) In addition to complying with all applicable laws related to fish  
28 passage as described in ORS 509.585 and all applicable laws related to water  
29 quality, maintenance activities conducted pursuant to a notice submitted  
30 under ORS 196.911 must comply with the following conditions:

1       “(a) A traditionally maintained channel must be dry before the com-  
2 mencement of any removal activities in the channel. If there is standing  
3 water in the channel that is due to a rain event and not indicative of a  
4 perennial stream, a person must request a variance under ORS 196.915 (5)  
5 prior to initiation of maintenance activities.

6       “(b) A person must complete removal activities during the applicable re-  
7 gional dry maintenance time period established by the State Department of  
8 Fish and Wildlife for the region where the traditionally maintained channel  
9 is located.

10       “(c) The body of motorized equipment used to conduct removal or fill ac-  
11 tivities must be operated from the bank of the channel, with only the bucket  
12 or portion of the motorized equipment that actively removes material oper-  
13 ating within the channel.

14       “(d) The bottom of the channel bed must be excavated on a smooth grade,  
15 in a manner that avoids creating depressions or grade changes within the  
16 channel.

17       “(e) Maintenance activities must be conducted in a manner that minimizes  
18 new erosion into the channel.

19       “(f) Removal of woody vegetation must be limited to the minimum amount  
20 needed to complete the maintenance activity.

21       “(g) Revegetation must occur for any riparian areas that serve as a buffer  
22 adjacent to the channel and that experience vegetation loss as a result of the  
23 maintenance activity. This condition is satisfied whether revegetation occurs  
24 naturally or after seeding.

25       “(h) Work related to the maintenance activity must be conducted only  
26 from one bank of the channel, on either the north or east side, when prac-  
27 ticable, to minimize the ecological impacts of the maintenance activity.

28       “(i) Motorized equipment used for maintenance activities must utilize ex-  
29 isting crossings, if crossing the channel is necessary to complete mainte-  
30 nance activities.

1 “(j) Maintenance activities must begin at the most upstream location of  
2 the traditionally maintained channel and progress downstream.

3 “(k) Material that is removed from the channel may be temporarily placed  
4 in a wetland or converted wetland to dry, provided that the material must,  
5 no later than one year after the date that the maintenance activity was  
6 completed, be moved to uplands or be spread in a thin layer outside the  
7 riparian area that serves as a buffer adjacent to the channel. Fill activities  
8 related to the maintenance of a traditionally maintained channel must be  
9 limited to fill pursuant to this paragraph.

10 “(L) Maintenance activities may not result in converting wetlands to up-  
11 lands and may not materially change the depth or functionality of a wetland.

12 “(m) Impacts to wetlands by the maintenance activities must be temporary  
13 and must be limited to impacts related to accessing the site to conduct re-  
14 moval activities in the channel, the removal of material and the disposal of  
15 removed material.

16 “(n) Maintenance activities may not result in a change in location of a  
17 channel through the digging of a new channel and the diversion of the flow  
18 from the old channel into the new channel or in increasing the width or  
19 depth of the channel beyond the width or depth to which the channel has  
20 routinely been maintained to facilitate drainage.

21 “(o) The maintenance activities must not alter any existing inlet or outlet  
22 connections with other waterways.”.

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